

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAVIER SALAZAR, JR., *et al.*

Defendants.

Case No. 1:23-cv-01282-CDB

ORDER GRANTING *EX PARTE*
APPLICATION TO EXTEND TIME FOR
SERVICE OF PROCESS

(Doc. 7)

Deadline: January 5, 2024

On August 28, 2023, Plaintiff United States of America initiated this action with its filing of a complaint against Defendants Javier Salazar, Jr., Javier Salazar, Sr., and Ricardo Covarrubias. (Doc. 1). That same date, the Clerk of Court issued summonses and the Court entered an Order setting a mandatory scheduling conference. (Docs. 2, 3). The Order directed Plaintiff to “diligently pursue service of summons and complaint” and “promptly file proofs of service.” The Order further advised Plaintiff that failure to diligently prosecute this action “may result in the imposition of sanctions, including the dismissal of unserved defendants.”

With respect to service, where a plaintiff fails to serve a defendant within 90 days after the complaint is filed, Rule 4(m), Fed. R. Civ. P. requires the Court to dismiss the action or order that service be made within a specified time upon a showing by the plaintiff of “good cause” for

the delay. *See In re Sheehan*, 253 F.3d 507, 512 (9th Cir. 2001).

On October 26, 2023, Plaintiff filed an *ex parte* application to continue the scheduling conference and extend the time for service of the summons and complaint. (Doc. 5). On October 30, 2023, the Court granted Plaintiff's request resetting the scheduling conference to January 29, 2024. (Doc. 6). Further, the Court ordered Plaintiff to file either summonses returned executed as to each Defendant or a status report setting forth good cause for any requested service extension by December 1, 2023. *Id.*

Pending before the Court is Plaintiff's *ex parte* application to extend the time for service of the summons and complaint. (Doc. 7). The application is supported by the declaration of counsel for Plaintiff in which counsel attests that Plaintiff mailed to each Defendant waivers of service, attempted to contact Defendants and attempted to effectuate personal service upon Defendants via process server on multiple occasions. *Id.* at 3-4. Counsel for Plaintiff represents Plaintiff will continue to attempt personal service on Defendants and pursue alternative methods service upon Defendants if unsuccessful. *Id.* Counsel for Plaintiff requests that the Court extend the time for service until January 5, 2024.

Accordingly, in light of Plaintiff's representations and good cause appearing, IT IS
HEREBY ORDERED:

1. Pursuant to Rule 4(m), Fed. R. Civ. P., no later than January 5, 2024, Plaintiff SHALL FILE either summonses returned executed as to each Defendant or a status report setting forth good cause for any requested service extension; and
2. The January 29, 2024 scheduling conference is reset to February 22, 2024, at 10:00 AM. before Magistrate Judge Christopher D. Baker. The parties are reminded of their obligation to file a joint scheduling report at least one week prior to the conference. (Doc. 3).

IT IS SO ORDERED.

Dated: November 22, 2023


UNITED STATES MAGISTRATE JUDGE